

State of Arizona  
House of Representatives  
Forty-ninth Legislature  
First Regular Session  
2009

## **HOUSE BILL 2088**

### **AN ACT**

AMENDING SECTION 41-511.23, ARIZONA REVISED STATUTES; MAKING AN APPROPRIATION; RELATING TO PUBLIC CONSERVATION MONIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2       Section 1. Subject to the requirements of article IV, part 1, section  
3 1, Constitution of Arizona, section 41-511.23, Arizona Revised Statutes, is  
4 amended to read:

5       41-511.23. Conservation acquisition board; land conservation  
6                   fund; conservation donation and public  
7                   conservation accounts; livestock and crop  
8                   conservation fund

9       A. The conservation acquisition board is established, as an advisory  
10 body to the Arizona state parks board, consisting of the following members  
11 who are appointed by the governor, at least one of whom shall be experienced  
12 in soliciting money from private sources:

13       1. One state land lessee.

14       2. One member who is qualified by experience in managing large  
15 holdings of private land for income production or conservation purposes.

16       3. One member of the state bar of Arizona who is experienced in the  
17 practice of private real estate law.

18       4. One real estate appraiser who is licensed or certified under title  
19 chapter 36.

20       5. One member who is qualified by experience in marketing real estate.

21       6. One representative of a conservation organization.

22       7. One representative of a state public educational institution.

23       B. The governor shall designate a presiding member of the board. The  
24 term of office is five years except that initial members shall assign  
25 themselves by lot to terms of one, two, three, two members for four and two  
26 members for five years in office.

27       C. The conservation acquisition board shall:

28       1. Solicit donations to the conservation donation account.

29       2. Consult with entities such as private land trusts, state land  
30 lessees, the state land department, the Arizona state parks board and others  
31 to identify conservation areas that are reclassified pursuant to section  
32 37-312 and that are suitable for funding.

33       3. Recommend to the Arizona state parks board appropriate grants from  
34 the land conservation fund.

35       D. The land conservation fund is established consisting of the  
36 following accounts:

37       1. The conservation donation account consisting of monies received as  
38 donations. Donations to the account are subject to any lawful conditions the  
39 donor may prescribe, including any conditions on the use of the money or  
40 reversion to the donor. Monies in the account are exempt from the provisions  
41 of section 35-190 relating to lapsing of appropriations.

42       2. The public conservation account consisting of monies appropriated  
43 to the account from the state general fund and monies from any other  
44 designated source. In fiscal years 2000-2001 through ~~2010-2011~~ 2011-2012,  
45 the sum of twenty million dollars is appropriated each fiscal year from the  
46 state general fund to the public conservation account in the land

1 conservation fund for the purposes of this section. Monies in the account  
2 are appropriated for the purposes of this section, and the Arizona state  
3 parks board may spend monies in the account without further legislative  
4 authorization. Each expenditure of monies from the public conservation  
5 account for purposes listed under subsection G, paragraph 2 of this section  
6 shall be matched by an equal expenditure of monies from the conservation  
7 donation account or from other private or governmental sources.

8 E. If the legislature fails to appropriate monies to the public  
9 conservation account in a fiscal year, and if there are no other monies in  
10 the public conservation account, the Arizona state parks board may either  
11 grant nothing from the fund in that year or, on recommendation by the  
12 conservation acquisition board, may grant available monies in the  
13 conservation donation account for purposes authorized in subsection G of this  
14 section.

15 F. The monies in the fund are exempt from the provisions of section  
16 35-190 relating to lapsing of appropriations.

17 G. Monies in the public conservation account, with matching monies  
18 from the conservation donation account, are appropriated as follows:

19 1. A total of two million dollars each fiscal year to the livestock  
20 and crop conservation fund. The fund is established for the purposes of this  
21 paragraph. Monies in the fund are continuously appropriated to the Arizona  
22 department of agriculture for the exclusive purpose of granting monies to  
23 individual landowners and grazing and agricultural lessees of state or  
24 federal land who contract with the Arizona department of agriculture to  
25 implement conservation based management alternatives using livestock or crop  
26 production practices, or reduce livestock or crop production, to provide  
27 wildlife habitat or other public benefits that preserve open space and for  
28 administrative expenses as provided by this paragraph. The department shall  
29 administer the fund. On notice from the director of the department, the  
30 state treasurer shall invest and divest monies in the fund as provided by  
31 section 35-313, and monies earned from investment shall be credited to the  
32 fund. Monies in the fund are exempt from the provisions of section 35-190  
33 relating to lapsing of appropriations. For the purposes of granting monies  
34 from the fund pursuant to this paragraph, the department:

35 (a) Shall develop guidelines and criteria for implementation of this  
36 program that shall include requiring as part of the application a letter  
37 describing the intended use for the grant money.

38 (b) Shall give priority to lessees of state or federal land who reduce  
39 livestock production to provide public benefits such as wildlife species  
40 conservation or wildlife habitat.

41 (c) Shall not grant more than fifty per cent of the monies in the fund  
42 with respect to land in one county in any fiscal year.

43 (d) Is exempt from chapter 6 of this title with respect to adopting  
44 rules, except that the department shall provide for public notice and sixty  
45 days for public comment on the annual grant guidelines and criteria,  
46 including public hearings.

1                   (e) Shall award all grants pursuant to chapter 24, article 1 of this  
2 title.

3                   (f) Shall require each grantee to submit to the department, within  
4 twelve months after receiving the grant, a written report detailing how grant  
5 monies were used to achieve the project described in the letter submitted as  
6 part of the application. If the project is longer than one year, a written  
7 report shall be submitted to the department on an annual basis until the  
8 project is complete.

9                   (g) May use not more than ten per cent of the monies appropriated to  
10 the fund in any fiscal year for the purposes of administering the program.

11                  (h) Shall prepare a report of the disposition of monies appropriated  
12 to the fund each fiscal year and provide a copy of the report to the  
13 governor, to the Arizona state parks board and to any person who requests a  
14 copy.

15                 2. The remainder of the monies to the Arizona state parks board for  
16 the exclusive purpose of granting monies to the state or any of its political  
17 subdivisions, or to a nonprofit organization that is exempt from federal  
18 income taxation under section 501(c) of the internal revenue code and that  
19 has the purpose of preserving open space, for the following purposes only:

20                 (a) To purchase or lease state trust lands that are classified as  
21 suitable for conservation purposes pursuant to title 37, chapter 2, article  
22 4.2. A grant of money under this subdivision to a nonprofit organization is  
23 conditioned on the organization providing reasonable public access to any  
24 land that is wholly or partly purchased with that money. The organization  
25 shall agree with the Arizona state parks board that it will impose a  
26 restrictive covenant, running with the title to the land, granting such  
27 access and providing for reversion to this state of any interest in the  
28 property acquired with money granted under this subdivision on the failure to  
29 comply with the terms of the covenant. The Arizona state parks board and the  
30 state land commissioner have standing to either enforce the covenant or  
31 recover the amount of the grant from the current owner, with interest from  
32 the date the grant was awarded to the nonprofit organization.

33                 (b) To purchase the development rights of state trust lands throughout  
34 this state under the following conditions:

35                 (i) The development rights shall be sold at public auction as provided  
36 in section 37-258.01.

37                 (ii) The lessee of the state trust land at the time the development  
38 rights are purchased shall be notified of the purchase in writing.

39                 (iii) The purchase of the development rights shall not result in  
40 cancellation or modification of the current lease.

41                 (iv) The purchase of the development rights shall not affect the  
42 existing lessee's current economic use of the land and rights pursuant to  
43 title 37, chapter 2, article 4.2.

44                 (v) As a condition of the sale of the development rights, the  
45 purchaser shall agree in perpetuity not to exercise the development rights  
46 and that the land shall remain as open space.

1                 (vi) The state trust land shall retain any other rights and attributes  
2 as prescribed by law at the time of the purchase.

3                 H. For the purposes of subsection G, paragraph 2 of this section:

4                 1. The Arizona state parks board shall not grant more than fifty per  
5 cent of the monies with respect to land in one county in any fiscal year.

6                 2. A grant of money is valid for eighteen months and may be extended  
7 one time for twelve additional months if a required public auction has not  
8 been held.

9                 3. The Arizona state parks board may adopt rules to establish  
10 qualifications of nonprofit organizations for purposes of applying for and  
11 receiving money granted.

12                 4. The owner of property that is wholly or partly acquired with money  
13 granted shall not restrict or unreasonably limit access to private lands.  
14 Any sale of land with money granted shall include a condition requiring that  
15 permanent access to private lands be allowed.

16                 I. The Arizona state parks board shall administer the land  
17 conservation fund. On notice from the board, the state treasurer shall  
18 invest and divest monies in either account in the fund as provided by section  
19 35-313, and monies earned from investments shall be credited to a separate  
20 administration account to pay the board's expenses of administering the land  
21 conservation and acquisition program under subsection G, paragraph 2 of this  
22 section, which shall not exceed five per cent of the amount deposited in the  
23 public conservation account in any fiscal year or five hundred thousand  
24 dollars, whichever is less. Any unobligated amount remaining in the  
25 administration account at the end of the fiscal year shall be credited to the  
26 public conservation account for purposes of subsection D of this section.

27                 J. Members of the conservation acquisition board may be reimbursed for  
28 travel and lodging expenses and per diem subsistence allowances incurred  
29 while on public business for the board. Reimbursement amounts shall not  
30 exceed those allowed under title 38, chapter 4, article 2.

31                 Sec. 2. Transfer of monies: land conservation fund

32                 Subject to the requirements of article IV, part 1, section 1,  
33 Constitution of Arizona, notwithstanding section 41-511.23, subsection D,  
34 paragraph 2 and subsection G, paragraphs 1 and 2, Arizona Revised Statutes,  
35 the following amounts are transferred from the fiscal year 2008-2009  
36 appropriation for the public conservation account of the land conservation  
37 fund to compensate for fiscal year 2008-2009 agency budget reductions and  
38 reversions as follows:

1. Arizona geological survey	\$ 110,300
2. State land department	
Trust land management	\$ 625,000
Natural resource conservation districts	\$ 283,800
3. Arizona state parks board heritage fund	\$3,000,000
4. Arizona state parks board	
Lump sum reduction	\$ 846,300
Land conservation fund interest	\$1,568,800

1	State park fees	\$2,241,100
2	5. Department of water resources	
3	Lump sum suspension/reduction	\$1,785,800
4	Water banking fund	\$1,561,900
5	6. Department of commerce	
6	Commerce workshops fund (growing smarter) (FRAT)	\$ 23,000
7	7. State land department	
8	Community protection fund	\$ 940,200
9	Fire suppression	\$1,000,000
10	8. Arizona state parks board	
11	State parks heritage fund	\$1,900,300
12	State parks enhancement fund (FRAT)	\$ 413,000
13	9. Department of water resources	
14	Augmentation and conservation	
15	assistance fund (FRAT)	\$ 99,800

16 Sec. 3. Appropriation; land conservation fund

17 Subject to the requirements of article IV, part 1, section 1,  
18 Constitution of Arizona, notwithstanding section 41-511.23, subsection D,  
19 paragraph 2 and subsection G, paragraphs 1 and 2, Arizona Revised Statutes,  
20 and in addition to any other appropriations the following amounts are  
21 appropriated from the fiscal year 2008-2009 appropriation for the public  
22 conservation account of the land conservation fund to compensate for fiscal  
23 year 2008-2009 agency expenditure suspensions as follows:

24	1. Department of commerce	
25	Commerce workshops fund (growing smarter) (EBT)	\$ 24,000
26	2. Arizona game and fish department	
27	Wildlife restoration and enhancement (EBT)	\$ 145,000
28	3. Arizona state parks board	
29	State parks enhancement fund (EBT)	\$3,077,000
30	4. Department of water resources	
31	Augmentation and conservation assistance	
32	fund (EBT)	\$ 354,700

33 Sec. 4. Requirements for enactment; three-fourths vote

34 Pursuant to article IV, part 1, section 1, Constitution of Arizona,  
35 section 41-511.23, Arizona Revised Statutes, as amended by this act, and  
36 sections 2 and 3 of this act, relating to transfer and appropriation of  
37 monies, are effective only on the affirmative vote of at least three-fourths  
38 of the members of each house of the legislature.

39 Sec. 5. Emergency

40 This act is an emergency measure that is necessary to preserve the  
41 public peace, health or safety and is operative immediately as provided by  
42 law.